

16 March 1998

Re: NEPA Technical Inquiry 0284 - Underground Storage Tank Regulations

Dear NEPA Call-In User:

This letter is in response to your March 4, 1998 request for regulatory information on Underground Storage Tanks (USTs). You sent NEPA Call-In a memorandum from the Defense Logistics Agency (DLA) which states tanks holding heating oil for on-premises use are exempt from the December 22, 1998 Environmental Protection Agency (EPA) deadline for certain UST upgrades according to Title 40 Code of Federal Regulations (CFR) Part 280, "Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks." Since there are USTs under your management that contain heating oil for on-premises consumptive use, you would like to confirm the exemption under the Federal regulation. You would also like information on how the Commonwealth of Massachusetts regulates such tanks.

SUMMARY OF FINDINGS

NEPA Call-In determined certain USTs containing heating oil for on-premises consumptive use are exempt from the upgrade requirements of Title 40 CFR Part 280. However, the Commonwealth of Massachusetts has detailed regulations on how such tanks should be regulated and can be found in 520 Code of Massachusetts Regulations (CMR) Chapter 12, and 527 CMR Chapter 9. NEPA Call-In e-mailed a file to you containing these regulations on March 6, 1998. The State Fire Marshal is the regulatory authority for USTs in the Commonwealth of Massachusetts.

DETAILED FINDINGS

NEPA Call-In reviewed the DLA memorandum, "Upcoming EPA Regulation Changes for Underground Storage Tanks," dated September 8, 1998. The memorandum warns of an approaching UST upgrade deadline of December 22, 1997, but states tanks containing heating oil for on-premises consumptive use are exempt from the deadline. In order to determine the validity of the exemption, we reviewed information about heating oil tank exemptions on the EPA's UST informational world wide web site. The EPA site contains a list of frequently asked questions (enclosed) about the UST upgrade deadline. Question eight asks, "Which UST systems are exempt/excluded/deferred from federal regulation?" The EPA answer states:

"Not all UST systems are Federally regulated, although they may be regulated by the State or local agency that implements an UST program, and you should first check with them. USTs in Indian Country are regulated by the EPA through the Regional Offices."

Under 40 CFR Part 280.11, tanks used for storing heating oil for consumptive use on the premises where stored are not included in the definition of an UST.

We then contacted the Massachusetts Department of Public Safety Underground Storage Tank Program, (617) 727-3200, for information on State regulations governing USTs. The representative we spoke with referred us to the State Fire Marshal for regulatory information.

We then contacted Mr. George Nice, Massachusetts State Fire Marshal,

(978) 567-3300, for information on UST regulations in the Commonwealth of Massachusetts. Mr. Nice stated the regulations are contained in the 520 CMR Chapter 12, "Requirements for the installation of tanks containing fluids other than water in excess of 10,000 gallons," and 527 CMR Chapter 9, "Tanks and containers," which were e-mailed to you on March 6, 1998. Mr. Nice also stated permits and other requirements may apply to USTs containing heating oil for on-premises consumption, depending on the size and construction of the tank. Mr. Nice further stated you may wish to contact him for site-specific regulatory information on the USTs under your management.

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Sincerely,

(Original Signed)

NEPA Call-In Researcher